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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

EZRIEL RAPAPORT, as Trustee of the
RAPAPORT 2006 GRANTOR TRUST,

Plaintiff,

vs.

AVI SOFFER, an individual; DOES 1 through
5 and ROE BUSINESS ENTITIES 1 through 5
inclusive,

Defendants.

2:10-cv-935-MMD-RJJ

Consolidated with:
2:12-cv-57

ORDER

Plaintiff Rapaport seeks the reasonable expenses, including attorney's fees, for the increased cost of litigating this case during the discovery phase pursuant to Rule 30 (d)(2) and rule 37 (a)(5)(A) and 28 U.S.C. §1927.. The court conducted a hearing regarding the monetary sanctions on December 27, 2012.

Soffer's attorney acknowledged that Lovato's hourly rate of \$250 per hour is reasonable for the work involved. The Defendant argued that the hours claimed were excessive and pointed to three specific examples. He also pointed out that the \$1500 previously awarded by the Curt (*see*, Minutes #65) should be deducted from the total claimed by the Plaintiff. Lovato agrees on the last point.

Attempts to resolve the discovery disputes before filing the motions were unsuccessful due to a lack of cooperation by Defendant's counsel. Defendant's failure to provide the requested

1 discovery and the oppositions to the motives were not substantially justified.

2 Defendant could not identify, and the Court could not find, any other circumstances that
3 would make an award of expenses unjust.

4 Defendant's conduct has multiplied the expenses to Plaintiff in this case. Defendant and
5 his counsel have acted in bad faith, vexatiously violating Fed. R. Civ. P. 1, as well as those Rules
6 directly implicated in the discovery efforts by the Plaintiff. Plaintiff, Rapaport, should not be
7 required to pay for these added expenses.

8 The Court discounts Plaintiff's request to allow for overlaps identified by the Defendant
9 and then subtracts the \$1500 sanction amount previously paid by Soffer.

10	Amount requested	\$34,225.00
11	Less 15%	<u>5,283.75</u>
12	Subtotal	\$28,941.25
13	Less	<u>1,500.00</u>
14	Total	\$27,441.25

15 There is no basis to discount the claimed costs of \$1,953.93. Therefore that amount is
16 granted. Good cause appearing therefore,

17 IT IS HEREBY ORDERED that sanctions and costs due and payable to the Plaintiff is
18 \$29,395.18. This amount shall be paid jointly and severally, by Defendant Soffer, his counsel
19 Efrem Rosenfeld and the law firm of Rosenfeld & Bauman on or before January 31, 2013.

20 DATED this 31st day of December, 2012

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24 ROBERT J. JOHNSTON
United States Magistrate Judge